

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, JULY 16, 2001
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:11 p.m. Mayor Murphy welcomed 35 young soccer players from Belfast, Ireland who are participants in a program designed to facilitate understanding between the Protestants and the Catholics in Ireland. Mayor Murphy adjourned the meeting at 4:09 p.m. to Closed Session in the 12th floor conference room on Tuesday, July 17, 2001, at 9:00 a.m. to discuss potential and pending litigation and Meet and Confer matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-not present
- (2) Council Member Wear-not present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (er)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-not present
- (2) Council Member Wear-not present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

ITEM-10: INVOCATION

Invocation was given by Reverend Walter Wells of Mt. Erie Baptist Church.

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Deputy Mayor Stevens.

ITEM-30: Terry Ruscin Day.

COUNCILMEMBER MAIENSCHIEIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-14) ADOPTED AS RESOLUTION R-295141

Proclaiming July 16, 2001 to be "Terry Ruscin Day" in recognition of his commitment to California's missions.

SUPPORTING INFORMATION:

Terry Ruscin through his dedication to the historical documentation of the settlement of California by his authorship of "Mission Memoirs" has shown the beauty of all the missions, asistencias, estancias and presidios in California. Terry has shown his commitment to increasing the public knowledge about the historical significance of the missions, as the first settlements in California. He has made the preservation, conservation and restoration of California's missions a priority as a concerned citizen and a Board Member of the California Missions Foundation. Terry has added to the rich cultural fabric of California's history by bringing us the photographs and narrative of his journey to the missions of California. He has devoted time and effort to the California Missions Foundation whose goal is to raise funds to ensure that all the missions have adequate financial resources for ongoing restoration and preservation efforts well into the next century. Terry has raised awareness about the missions through his tireless effort to display the architectural magnificence of the missions with the dramatic photography in his book "Mission Memoirs." Last, he has donated half of the proceeds of his book "Mission Memoirs" directly to the missions, and is helping to preserve these glorious structures for future generations. Therefore, this action proclaims July 16, 2001 to be "Terry Ruscin Day."

Balolong

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A096-166.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31: Gloria Grant Day.

DEPUTY MAYOR STEVENS'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-55) ADOPTED AS RESOLUTION R-295142

Commending Gloria Grant for her dedicated service and proclaiming July 16, 2001 to be "Gloria Grant Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A173-216.)

MOTION BY STEVENS TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell informed Council that his suggestions are brought before the Council because he believes that the new Council is bringing an open mind to the meetings and that if an idea or suggestions appeals to the Council their opinion would carry a much greater weight than his alone. Mr. Stillwell stated that he believes that the Council listens and weighs the information to make the best possible decisions in the interest of the public. Mr. Stillwell suggested that because public transportation buses get caught in gridlock, they should make "Broadway buses only" to help reduce congestion. He also suggested a new bus stop on Rancho Mission Road that is wheelchair friendly.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B198-241.)

PUBLIC COMMENT-2:

Jarvis Ross stated that he believes that his civil rights of free speech on non-agenda items were violated. He stated that during the Council meeting in which the expansion of Sea World was discussed, the public speakers' time was cut to two minutes, yet Council Members were allowed to speak as long as they wished and much of what was said was non-germane and contradictory to parliamentary procedure.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B246-278.)

PUBLIC COMMENT-3:

Bill Paul commented regarding Mission Bay projects. Mr. Paul thanked Mr. Wear for limiting any proposed hotel to 30 feet and 300 rooms, but as he understands it, this is not an approval to build a hotel, but merely a restriction on what may be proposed. If correct the 300 room agreement on the lease was a backroom deal between the Real Estate Assets Director and Sea World and not proposed by open public hearings and, therefore, only allows Sea World to propose a hotel. Mr. Paul stated that he believes that by a mandate of the City Council the new architectural design for the new Sea World splash down ride must be returned to the Planning Commission and back to the City Council for approval. He requested to be advised on this matter. He also suggested that the television cameras in chambers be relocated to the back corner because they cause a visual obstruction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B280-326.)

PUBLIC COMMENT-4:

Dora Ellison wished to express her feels regarding the De Anza Cove Community. Ms. Ellison stated that she and her neighbors have chosen to live in De Anza Cove because they are able to afford living there on Social Security. She stated that the residents will lose their investment in their home when the park closes and asked for help and support from leaders of the community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B327-359.)

PUBLIC COMMENT-5:

Maryann Pollack representing the National Association of Social Workers for San Diego and Imperial Counties and the Hopes Coalition presented the Council a proclamation on affordable housing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B373-445.)

PUBLIC COMMENT-6:

Leo Long commented regarding Mission Bay Projects, the De Anza Cove Community, and the third way plan.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B448-500.)

PUBLIC COMMENT-7:

James Justice offered his condolences to Council Member Inzunza and requested that the meeting be adjourned in memory of Marina Inzunza, Council Member Inzunza's grandmother.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B505-519.)

PUBLIC COMMENT-8:

Nino Kovacic commented regarding federal disability and SSI.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B529-580.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Inzunza asked when non-agenda comment would be placed at the end of the Council meeting agenda. Mr. Inzunza also stated that the Council's office space is inadequate and a solution might be to split the Council offices between two floors.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: B583-C040.)

COUNCIL COMMENT-2:

Council Member Frye thanked City employees for making Summer Fest a success.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: C042-051.)

COUNCIL COMMENT-3:

Council Member Stevens commented regarding non-agenda comment and Summer Fest.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: C052-069.)

CITY MANAGER COMMENT:

City Manager Uberuaga thanked all who attended and helped with Summer Fest.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: C089-098.)

CITY ATTORNEY COMMENT:

City Attorney Gwinn announced that the City Council needs to be briefed in Closed Session regarding City v. All Persons Interested in Superior Court Case No. 763487 and Furgatch v. Unified Port District Superior Court Case No. 744288. Mr. Gwinn stated that the need for that discussion arose this morning based on a development in those cases. Mr. Gwinn informed Council that because it was less than 72 hours prior to the noticed Closed Session and pursuant to Government Code Section 55954(b)(2), Council has the ability to docket that item based on the attorney's recommendation. Mr. Gwinn requested a motion and a vote.

The motion to hear the items in Closed Session was made by Madaffer, second by Stevens. The vote was unanimous with Peters, Wear, and Inzunza not present.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: C110-125.)

ITEM-50: Amendments to the City's Elections Code, Chapter 2, Article 7 of the San Diego Municipal Code.

(See Charles G. Abdelnour's 6/14/2001 memo; City Attorney's 6/13/2001 report; and City Clerk Report CCR-01-02.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2002-2) CONTINUED TO TUESDAY, JULY 31, 2001

Introduction of an Ordinance, amending Chapter II, Article 7, of the San Diego Municipal Code, relating to Elections, by amending Division 2, Section 27.0213 - Nominations; by amending Division 6, Sections 27.0608, 27.0620 and 27.0621 - Ballots for Candidates; by amending Division 7, Sections 27.0701 and 27.0709 - General Provisions for Filling Vacancies in Elective Offices; by amending Division 8, Sections 27.0801, 27.0802, 27.0803, 27.0804, 27.0805, 27.0806, and 27.0809 - Procedure for Filling Vacancies in Elective Offices by Appointment; by amending Division 9, Sections 27.0902 and 27.0907- Procedure for Filling Vacancies in Elective Offices by Special Election; and by repealing Division 23, Sections 27.2301, 27.2302, and 27.2303.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On 6/20/2001, RULES voted 5 to 0 to accept the report. (Councilmembers Wear, Atkins, Stevens, and Madaffer and Mayor Murphy voted yea.)

SUPPORTING INFORMATION:

At the RULES Committee meeting on May 23, 2001, the Committee approved the staff recommendations contained in City Clerk's Report CCR-01-02 except to restore the word "business" to Section 27.0701. The Committee also directed the City Attorney to prepare a report on the legislative history of the City's process for filling vacancies in the offices of the Mayor, City Attorney and City Council. At the RULES Committee meeting on June 20, 2001, the City Attorney's Report was accepted and the proposed amendments were approved.

Abdelnour

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: A396-563.)

Motion by Atkins to introduce the ordinance. Second by Madaffer. No vote taken.

MOTION BY INZUNZA TO CONTINUE TO TUESDAY, JULY 31, 2001, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-nay, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-51: Office Space Lease Agreement - 707 Broadway.

(Centre City Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2002-4) INTRODUCED, TO BE ADOPTED ON TUESDAY, JULY 31,
2001

Introduction of an Ordinance authorizing the City Manager to execute a lease agreement with 707 Broadway, LLC, for a total leasehold area of approximately 15,009 square feet, at the base rent of \$19,750 per month;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$205,443.44 from the Library's Fund No. 100, Dept. 310, for rent and utility charges from the FY2002 Budget, and \$300,000 from the General Fund No. 100, Dept. 601, for moving costs and data infrastructure costs from the FY2002 Budget. These expenditures are contingent upon approval of the FY2002 Budget by the Mayor and City Council.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

CITY MANAGER SUPPORTING INFORMATION:

The San Diego City Library, located at 820 E Street, has expanded beyond current capacity. Expansion space has been located on the 3rd floor of the 707 Broadway Tower Building. The leased space would allow the Library to relocate Technical Service (the ordering, cataloging, and processing of library materials), and the Branch Delivery function to alleviate space constraints at the Central Library. Approximately 8,000 square feet would be freed for public use at the Central Library. The additional public space would be used to:

- ! Expand the Gates/State Library funded computer lab.
- ! Create a separate area for the fast growing audiovisual collection.
- ! Create a Teen Space to accommodate the teenagers who have outgrown the Children's Room.

The Library is proposing to lease the space under the following basic terms:

TERM - Approximately 5 years. The target commencement date is September 15, 2001, expiring September 14, 2006.

RENT - Total rent per month is \$19,750. The total rent includes \$1.50 per square foot or \$14,223 per month for the office space and \$1 per square foot or \$5,527 per month for book storage space. These rental rates are below market compared to similar space in the downtown area.

UTILITY CHARGES - The electricity consumption will be separately metered and paid by the City. The estimated cost is approximately \$1,800 per month.

USE - General office use and Library book storage.

SIZE - 9,482 square feet of office space and 5,527 square feet of book storage space. Total square feet is 15,009.

OPTION TO EXTEND - The City has the option to extend the lease for five (5) additional years.

TENANT IMPROVEMENTS - The landlord will install the tenant improvements at the landlord's sole cost and expense. The cost of the improvements is estimated at \$280,000. In addition, the landlord will be paying up to \$80,000 to install the Library's data line infrastructure.

FISCAL IMPACT:

\$205,443.44 will be paid from the Library's Fund No. 100, Dept. 310, for rent and utility charges from the FY2002 Budget. In addition, \$300,000 will be paid from the General Fund No. 100, Dept. 601, for move costs and data infrastructure costs from the FY2002 Budget.

Herring/Griffith/DLM

Aud. Cert. 2200022.

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO INTRODUCE THE ORDINANCE. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-100: Cancellation of the 2:00 p.m., Wednesday, November 21, 2001, Public Safety and Neighborhood Services Committee Meeting.

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S
RECOMMENDATION:**

Adopt the following resolution:

(R-2002-61) ADOPTED AS RESOLUTION R-295143

Amending the schedule of meetings for the City Council and Standing Committees of the City Council for the period of January 1, 2001 through December 31, 2001, to delete the Public Safety and Neighborhood Services Committee meeting of Wednesday, November 21, 2001 at 2:00 p.m.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-101: Appointment to the Commission of the Public Facilities and Financing Authority.

(See memorandum from Mayor Murphy dated July 2, 2001.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-97) ADOPTED AS RESOLUTION R-295144

Council confirmation of the appointment by the Mayor of L. Renee Comeau, to serve as a member of the Commission of the Public Facilities and Financing Authority, for a term ending January 11, 2003, replacing Mary L. Walker, who has resigned.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-102: San Diego Surf Cup Days.

COUNCILMEMBER PETERS'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-53) ADOPTED AS RESOLUTION R-295134

Proclaiming July 29-30, August 4-6 and November 23-28, 2001 as "San Diego Surf Cup Days" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-103: Excusing Councilmember Jim Madaffer from the City Council Meeting of May 29, 2001.

COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-52) ADOPTED AS RESOLUTION R-295145

Excusing Councilmember Jim Madaffer from attending the regularly scheduled Council meeting of May 29, 2001.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-104: Thomas D. Felkner Day.

COUNCILMEMBER ATKINS'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-94) ADOPTED AS RESOLUTION R-295146

Recognizing the breadth of accomplishments of Thomas D. Felkner;

Proclaiming July 16, 2001 to be "Thomas D. Felkner Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-105: San Diego Home Loan Counseling Service Day.

COUNCILMEMBER ATKINS'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-100) ADOPTED AS RESOLUTION R-295147

Supporting and encouraging the mission and goals of the San Diego Home Loan Counseling Service;

Recognizing the accomplishments of this organization for improving the quality of life for the people of San Diego, and proclaiming July 20, 2001 to be "San Diego Home Loan Counseling Service Day" in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-106: Settlement of the Personal Claim of 4570 Investors, Limited.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1774 Cor. Copy) ADOPTED AS RESOLUTION R-295148

A Resolution approved by the City Council in Closed Session on Tuesday, June 12, 2001, by the following vote: Peters-yea; Wear-yea; Atkins-yea; Stevens-not present; Maienschein-yea; District 6-vacant; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$80,000 in the settlement of each and every claim against the City, its agents and employees, in Superior Court Case No. 720869, 4570 Investors Limited v. City of San Diego.);

Authorizing the City Auditor and Comptroller to issue one check in the total amount of \$80,000 made payable to 4570 Investors, Limited, and its attorney of record, Gregg B. Hovey, Hovey & Kirby, A.P.C, 402 West Broadway, Suite 1500, San Diego, California, in full settlement of the lawsuit and of all claims;

Declaring that the funds are to be payable from Fund No. 81140, Public Liability Reserve Fund.

CITY MANAGER SUPPORTING INFORMATION:

This constitutes the complete and final settlement of the Personal Claim of 4570 Investors, Limited, against the City of San Diego, its agents and employees, as a result of an incident which occurred in 1995 to present. This action was approved by the City Council in Closed Session on June 12, 2001.

Herring/Oliva/MG

Aud. Cert. 2200021.

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-ineligible, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-107: Agreement with Orrick Herrington & Sutcliffe for Legal Services relating to the City of San Diego/MTDB Authority Lease Revenue Bonds (1994 Refundings) and Convention Center Expansion Financing.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-15 Cor. Copy) ADOPTED AS RESOLUTION R-295149

Authorizing the City Manager to execute an agreement with Orrick, Herrington and Sutcliffe, in an amount not to exceed \$31,900, for legal services relating to the City of San Diego/MTDB Lease Revenue Bonds (1994 Refundings) and the Convention Center Expansion;

Authorizing the expenditure of an amount not to exceed \$16,900 from CIP-36-063.0, Central Police Garage Relocation, and an amount not to exceed \$15,000 from Fund 102211.

CITY MANAGER SUPPORTING INFORMATION:

The Agreement with Orrick Herrington & Sutcliffe ("Orrick") is for legal services related to the proposed New Main Library and Convention Center Financings. Orrick acted as bond counsel on the City of San Diego/MTDB Authority Lease Revenue Bonds (1994 Refundings) ("1994 Refunding Bonds ") and the Convention Center Expansion Financing Authority Lease Revenue Bonds, Series 1998A (City of San Diego, California as Lessee) ("1998 Bonds ").

The City is considering the construction of a New Main Library, and on June 5, 2000, the City Council selected the Park to Bay site for the location of the proposed facility. This site, which is located between 11th and 12th Avenues and J and K Streets, is the current location of the Police Heavy Vehicle Maintenance Facility (the "Police Garage").

The Police Garage is encumbered under a financing lease pertaining to the 1994 Refunding Bonds. Because the facility is encumbered under an existing financing lease, and because Orrick acted as bond counsel for the financing.

Orrick's services are necessary to review any legal issues associated with utilizing the site for the proposed New Main Library, including the need to execute an asset substitution under the applicable financing lease, which the City Council had previously approved.

Orrick's prior experience as bond counsel on the 1998 Bonds makes them uniquely qualified to assist the City on legal issues pertaining to the Convention Center Expansion.

Devaney/KS

Aud. Cert. 2101299.

FILE LOCATION: MEET (62)

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-108: Joint Use Agreement with the San Diego County Water Authority.

(Scripps Miramar Ranch Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-23) ADOPTED AS RESOLUTION R-295150

Authorizing the City Manager to execute a Joint Use Agreement with the San Diego County Water Authority (SDCWA) for the installation of the 84-inch diameter Miramar 2A Pipeline and Tunnel within the SDCWA Easement.

CITY MANAGER SUPPORTING INFORMATION:

Miramar Water Treatment Plant (WTP) Early Start Improvements Project Phase I represents initial improvement components outside the Miramar WTP perimeter necessary to achieve the expansion of the plant from 140 million gallon per day (MGD) to 215 MGD. Miramar WTP Early Start Improvements Project Phase I consists of improvements to Miramar water distribution system which include the installation of the 84-inch diameter Miramar 2A Pipeline and Tunnel. As part of the Miramar Water Treatment Plant Upgrade, the City of San Diego desires to tunnel under the San Diego County Water Authority's pipeline to construct the 84-inch diameter Miramar 2A Pipeline.

This Joint Use Agreement will allow both agencies to access their pipelines for repair and maintenance.

FISCAL IMPACT:

None.

Loveland/Gardner/NK

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-109: Supporting ABX2 6 (Kelley), if Amended.

(See Memorandum from Sloat Higgins Jensen and Associates dated 6/15/2001.)

TODAY'S ACTION IS:

Adoption of the following resolution:

(R-2002-91) ADOPTED AS RESOLUTION R-295151

Supporting ABX2 6 (Kelley) relating to reclaimed water/electrical energy, if it is amended to include San Diego County.

RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S RECOMMENDATION:

On 6/20/2001, RULES voted 5 to 0 to support ABX2 6, if amended to include San Diego County. (Councilmembers Wear, Atkins, Stevens, Madaffer, and Mayor Murphy voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A573-B071.)

MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-110: Approving the Plans and Specifications and Inviting Bids for the Construction of Bonita Pipeline Phase II.

(See Memorandum from Larry Gardner dated 6/8/2001. Mount Hope, Chollas View, Mountain View and Golden Hills Community Areas. Districts-4 and 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2001-1451) ADOPTED AS RESOLUTION R-295152

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental and inviting bids for the Construction of Bonita Pipeline - Phase II, on Work Order No. 182451;

Authorizing the City Manager to execute a contract with the lowest responsible bidder;

Authorizing the expenditure of an amount not to exceed \$1,933,957 from Water Revenue Fund 41500, CIP-70-920.0, Bonita Pipeline - Phase II, and \$87,616 from CIP-73-331.0, Annual Allocation for Pooled Contingency, contingent upon passage of the Fiscal Year 2002 Capital Improvement Program Budget and Appropriation Ordinance, provided that the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for the expenditure are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K-01082C)

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 6/13/2001, NR&C voted 4 to 0 to approve. (Councilmembers Wear, Frye, Madaffer, and Inzunza voted yea. Councilmember Peters not present.)

CITY MANAGER SUPPORTING INFORMATION:

The Bonita pipeline was constructed in 1915 and is one of the City's oldest water transmission mains. The pipeline conveys water from both the Alvarado and Otay Water Treatment Plants to service customers in the central and southeastern portions of the City. Previous upgrades have included replacing approximately 1.1 miles of the original pipeline in 1993 and 3.2 miles in 1994. To ensure a safe and reliable water supply, the Bonita Pipeline Phase II will replace the three remaining sections of the original 1915 pipeline with 30-inch pipe. Also as part of the commitment with the Department of Health Services and in accordance with Compliance Order 0414-96-022, Nos. 67 and 68, the City shall begin construction of the remaining sections totaling 3,200 feet by October 31, 2001 and shall complete construction by October 1, 2003.

This replacement will take place in three segments.

Segment 1 begins east of 30th Street on Broadway, and extends approximately 1,300 feet east through an underdeveloped right-of-way, where it connects to an existing pipeline under State Route 94.

Segment 2 begins at Hilltop Drive and extends south approximately 1,400 feet on 45th Street to Market Street.

Segment 3 begins at the intersection of Imperial Avenue and YMCA Way and extends north approximately 500 feet.

Replacing the above three sections will complete the replacement of the entire original Bonita Pipeline which began in 1950. This upgrade is necessary to meet the future demands and to maximize the water transmission needs of the system.

FISCAL IMPACT:

Total estimated cost of this project is \$2,398,993. This request is for \$2,021,573 of which \$1,933,957 is available from Water Fund 41500, CIP-70-920.0, Bonita Pipeline Phase II and \$87,616 is available in Water Revenue Fund 41500, CIP-73-331.0, Annual Allocation Water Pooled Contingency.

Loveland/Gardner/NMK

FILE LOCATION: W.O. 182451

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-111: Sewer and Water Group 638 - Request for Additional Funds.

(See Memorandum from Frank Belock dated 5/24/2001 and Frequently Asked Questions About Group Jobs. Peninsula Community Area. District-2.)

TODAY'S ACTION IS:

Adoption of the following resolution:

(R-2001-1754 Cor. Copy) ADOPTED AS RESOLUTION R-295153

Approving Change Order Nos. 2 and 3, with DJF Construction Corporation for Sewer and Water Group 638;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$185,000 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation, Sewer Main Replacement (\$45,000 for engineering services and \$140,000 for additional project contingencies);

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$28,750 from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, for additional contingencies associated with the project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 5/30/2001, NR&C voted 3 to 0 to approve. (Councilmembers Peters, Madaffer and Inzunza voted yea. Councilmember Wear not present.)

CITY MANAGER SUPPORTING INFORMATION:

On November 1, 1999, the City Council approved the plans and specifications and authorized the execution of a contract for Water and Sewer Group 638 (RR-292395).

The City Manager awarded a contract for \$1,172,272.60 to DJF Construction Corporation. The existing sewer laterals on Alcott Street were discovered to be in a different location than what was determined from existing City records. This constituted a changed condition and required the re-design of the new sewer to accommodate the existing sewer laterals.

During construction of the sewer main an existing, deteriorated water service failed and was repaired by City forces. Subsequently, the service failed two more times causing damage to the sewer main trench and work site. The contractor was instructed to repair all damage and restore the site. Due to these incidents, the bid items for trench resurfacing needed to be adjusted to accommodate the additional work required.

The additional funds requested are necessary for the work associated with the changes in the scope of work. These changes include additional engineering design and inspection and construction operations cost.

FISCAL IMPACT:

The revised total estimated cost of this project is \$2,170,152 of which \$1,956,402 was previously authorized. The request of \$185,000 is available in Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement, and \$28,750 is available in Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, of which \$45,000 is for engineering services and \$168,750 is for additional project contingencies.

Loveland/Belock/HR

Aud. Cert. 2101244.

WWF-01-518.

FILE LOCATION: CONT - DJF Construction Corporation;
W.O. 173431/183381

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-112: Settlement of the Personal Injury Claims of John Garcia.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-56) ADOPTED AS RESOLUTION R-295154

A Resolution approved by the City Council in Closed Session on Tuesday, June 5, 2001, by the following vote: Peters-yea; Wear-yea; Atkins-yea; Stevens-yea; Maienschein-yea; District 6-vacant; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$77,722.54 in the settlement of each and every claim against the City, its agents and employees, resulting from the personal injury to John Garcia (Superior Court Case No. GIC-751861, John Garcia v. City of San Diego, et al.);

Authorizing the City Auditor and Comptroller to issue one check in the total amount of \$65,000 made payable to John Garcia and attorney of record in full settlement of the lawsuit and all claims, and another check in the amount of \$12,722.54 to John Garcia for back pay.

CITY MANAGER SUPPORTING INFORMATION:

This constitutes the complete and final settlement of the personal injury claim of John Garcia against the City of San Diego, its agents and employees, as a result of the incidents which occurred on January 22, 2000 and May 27, 2000.

Herring/Oliva/JE

Aud. Cert. 2101280.

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-150: First Amendment of Agreement with O'Brien Kreitzberg for Construction Management Services.

(See Larry Gardner's Memorandum dated 6/8/2001.)

TODAY'S ACTION IS:

Adoption of the following resolution:

(R-2002-48) ADOPTED AS RESOLUTION R-295155

Authorizing the City Manager to execute a First Amendment to the Construction Management Services Agreement with O'Brien Kreitzberg, Inc. to provide construction management services for ongoing and projected construction projects;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$9,139,693 from Water Revenue Fund 41500, for the purpose of funding this first amendment, contingent upon passage of the Fiscal Year 2002 Capital Improvement Program Budget and Appropriation Ordinance, and provided that the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 6/13/2001, NR&C voted 4 to 0 to approve the recommendation. (Councilmembers Wear, Frye, Madaffer and Inzunza voted yea. Councilmember Peters not present.)

CITY MANAGER SUPPORTING INFORMATION:

The Water Department is implementing a large and aggressive Capital Improvement Program (CIP) to build, upgrade, and rehabilitate the water system infrastructure. More than two years ago, the need to obtain professional construction management services was identified by Value Engineering Workshops of various CIP projects as an essential part of achieving the goals and time schedule of the Water Department to ensure protection and efficient operation of Water facilities.

Construction Management Services ensures construction completion of tasked projects from a construction-bid award up to acceptance of the project by the Water Department Operations staff. Construction Management Services includes providing Construction Administration Services (start up and close out of each project, chair progress meetings, coordinate with other agencies, negotiate claims and changed condition), Quality Assurance & Quality Control (enforce plans and specifications, perform daily and specialty inspection, review project schedule and budget), and Document Control and Records Management (generate, distribute, and file construction documents and correspondence).

Following a competitive construction management selection process, the City Council approved Resolution R-291531 for two phased agreements for construction management services to support the execution of the Water Department Capital Improvement Program (CIP). One agreement with O'Brien Kreitzberg, Inc. is for a total contract dollar amount of \$3,993,914 and the other one with Corrao Brady Group is for a total dollar amount of \$4,055,256.

However, the contract with the Corrao Brady Group was not awarded because the firm's partnership was dissolved. O'Brien Kreitzberg, Inc. was the only Construction Management firm awarded a contract for managing multiple CIP construction projects for the Water Department effective April 26, 1999 for a total amount of \$3,993,914.

The Water Department / CIP Program Management Division tasked O'Brien Kreitzberg, Inc. to provide additional Construction Management Services, originally intended to be tasked to the other Construction Management firm, for various water facilities.

This First Amendment to the original agreement with O'Brien Kreitzberg, Inc. is necessary in order to continue providing Construction Management Services for ongoing and projected future CIP construction projects including managing the Water Department \$10 million Job Order Contract.

The knowledge and the involvement of the O'Brien Kreitzberg firm with the CIP program-wide goals and time schedule to upgrade, expand, and rehabilitate the water infrastructure will allow the continuation of providing more efficient, consistent, and cost effective Construction Management Services to the CIP Program.

FISCAL IMPACT:

Funding in the amount of additional \$9,139,693 is available in the Water Revenue Fund 41500 to fund the Amended Agreement.

| <u>Fiscal Year</u> | <u>Dollar Amount</u> |
|--------------------|----------------------|
| 2002 | \$4,259,550 |
| 2003 | \$3,581,757 |
| 2004 | <u>\$1,298,386</u> |
| Total | \$9,139,693 |

Loveland/Gardner/NK

Aud. Cert. 2200025.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C237-343.)

MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Third Update to the Land Development Code - Homeless Facilities.

(Continued from the meeting of 5/29/2001, Item 331d, at the request of Councilmember Inzunza, for further review and clarification from the City Attorney's office.)

Matter of approving, conditionally approving, modifying or denying the portion of the Third Update to the Land Development Code regarding Homeless Facilities.

(City-wide)

NOTE: Hearing open. No testimony taken on 5/29/2001.

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2001-109 Cor. Copy) TRAILED TO TUESDAY, JULY 17, 2001

Introduction of an Ordinance amending Chapter 14, Article 1, Division 4 of the San Diego Municipal Code, by amending Section 141.0412, relating to Homeless Facilities, to provide that emergency shelters which are accessory uses to religious institutions or religions organizations operating for 30 days or less in any 365-day period are exempt from this section; declaring that outside the Coastal Overlay Zone, this ordinance shall take effect and be in force on the thirtieth day from and after its passage. Within the Coastal Overlay Zone, this ordinance shall be in effect on the date it is effectively certified by the California Coastal Commission as a City of San Diego Local Coastal Program amendment.

OTHER RECOMMENDATIONS:

Planning Commission voted 7 - 0 to approve; no opposition.

Ayes: Steele, Anderson, Brown, Butler, Skorepa, Stryker, and Garcia
Nays: None

This is a matter of City-wide effect.

ENVIRONMENTAL IMPACT:

Action on the amendment to Section 141.0412 (Homeless Facilities) of the Land Development Code is exempt from CEQA pursuant to the State Guidelines Section 15061(b)(3).

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: A218-274.)

MOTION BY ATKINS TO TRAIL TO TUESDAY, JULY 17, 2001 TO ALLOW CLOSED SESSION DISCUSSION PRIOR TO HEARING THE ITEM IN OPEN SESSION. Second by Stevens. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-nay, Mayor Murphy-yea.

ITEM-201: Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

REFERRED TO CLOSED SESSION

Property: City-wide Franchise Agreement.

Agency Negotiator: George I. Loveland, Senior Deputy City Manager
Patricia Frazier, Deputy City Manager
Deborah Berger, Deputy City Attorney.

Negotiating Parties: San Diego Gas & Electric.

Under Negotiation: Price and Terms.

Prior to Council discussion in Closed Session and in compliance with the Brown Act, (California Government Code Section 54956.8) this issue is listed on the docket **only** for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session on July 17, 2001.

NOTE: Members of the public wishing to address the Council on this item should speak "in favor" or "in opposition" to the subject.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C128-237.)

Hearing closed.

ITEM-202: Purchase of Triple Combination Fire Apparatus - Award of Contract.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-16) ADOPTED AS RESOLUTION R-295156

Accepting the low bid meeting specifications of Pierce Manufacturing, Inc. and authorizing the City Manager to execute a contract for furnishing Triple Combination Fire Apparatus at a cost of \$441,517.48 each, including sales tax, plus radios at the City's contract price from Motorola Inc., as may be required for a period of one (1) year beginning on the date of award of the contract, with options to renew the contract for four (4) additional one (1) year periods, with price escalations not to exceed 3% of prices in effect at the end of each prior contract year;

Authorizing an initial order for twelve (12) units at an estimated cost of \$6,605,000 including sales tax, radios and lease payments;

Authorizing the City Manager to finance the acquisition under the Equipment and Vehicle Lease Program over a period of seven (7) years;

Authorizing the expenditure of funds, estimated not to exceed \$382,000, from Fund No. 100, Department No. 120, Organization No. 2252, Object Account No. 6029, and Job Order No. 005700 for cash payment of sales tax for the contract; and authorizing the Auditor and Comptroller, upon advice from the Fire Department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-4018-01-A)

CITY MANAGER SUPPORTING INFORMATION:

The proposed contract is for the purchase of Triple Combination Fire Apparatus for the Fire Department as may be required for a period of one (1) year from the date of award of the contract, with options to renew for four (4) additional one (1) year periods, with option period increases not to exceed 3% of prices in effect at the end of the prior option period. The initial order will be for twelve (12) units. These units will replace those which no longer meet the Fire Department's day to day operational needs. Six (6) of the replaced units will be added to the reserve fleet and the others will be disposed of.

Thirty-three (33) potential bidders were contacted, five (5) bids were received per the tabulation. The recommended award is to Pierce Manufacturing, Inc., the low bidder meeting specifications. The apparent low bids from American LaFrance and Westates were rejected as they failed to meet the specifications for critical requirements.

In the original bid document it was estimated that only four (4) units would be ordered. However, the City requested discounts for orders in excess of the original estimated quantity and Pierce Manufacturing offered a discount of \$2,000 per unit for orders of nine or more. The total estimated cost for this contract takes into account the quantity discount offered by Pierce Manufacturing, and also the addition of portable radios which are being supplied to Pierce Manufacturing at the City contract price by Motorola.

FISCAL IMPACT:

It is proposed that the acquisition be financed using the City's Equipment and Vehicle Lease Program for Fiscal Year 2002, the estimated payment for sales tax is \$382,000 (rounded), for Fiscal Year 2003 through Fiscal Year 2009 lease payments of \$889,000 (rounded). Total expenditure \$6,605,000 (rounded).

Loveland/Baldwin/FM/PK

Aud. Cert. 22000014.

FILE LOCATION: PURCHASE

COUNCIL ACTION: (Tape location: C348-354.)

MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-203: Spring Canyon Water Easement/Easement Quitclaim.

(Continued from the meeting of 5/29/2001, Item 102, at the request of Councilmember Maienschein, for more information from staff for further review.)

(Scripps Miramar Ranch Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1479) CONTINUED TO MONDAY, SEPTEMBER 17, 2001

Authorizing the acceptance of an Easement Deed from the U.S. Navy, executed in favor of the City of San Diego, conveying to the City an easement over, under, upon, along and across its real property for water line purposes;

Authorizing the City Manager to execute a Quitclaim Deed, quitclaiming to the United States of America (U.S. Navy), all the City's right, title and interest in an old road easement.

CITY MANAGER SUPPORTING INFORMATION:

In 1995 the City approved a Rezone, Planned Residential Development (PRD) Permit, Tentative Map (TM) and Resource Protection Ordinance (RPO) Permit for a 69-unit single-family residential development known as Spring Canyon at Scripps Miramar Ranch. The Spring Canyon Project required a water line easement across United States of America (U.S. Navy) property for a 12 inch looped pipeline as an off-site requirement for this development. As a part of this action, the City will quitclaim a road easement to the United States of America (U.S. Navy), which is located on their military base and no longer meets any City or public needs. The acceptance of the Easement Deed and execution of the Quitclaim Deed are subsequent actions to satisfy conditions of the previously approved project.

FISCAL IMPACT:

None.

Herring/Griffith/RAG

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: A289-308.)

MOTION BY MAIENSCHIN TO CONTINUE TO MONDAY, SEPTEMBER 17, 2001, FOR FURTHER REVIEW. Second by Inzunza. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-204: Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

REFERRED TO CLOSED SESSION

In the matter of directing the City Manager to enter into a new lease with the YMCA at Torrey Hills Neighborhood Park (APN-307-451-57) and to extend the existing La Jolla (APN-346-711-07) and Peninsula (APN-449-110-09) YMCA leases.

Prior to Council discussion in Closed Session and in compliance with the Brown Act, (California Government Code Section 54956.8) this issue is listed on the docket only for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session on July 17, 2001.

NOTE: Members of the public wishing to address the Council on this item should speak "in favor" or "in opposition" to the subject.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C355-361.)

Hearing closed.

ITEM-205: Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

REFERRED TO CLOSED SESSION

Property: An approximate 4.92 acre portion of the 38 acre San Diego Sports Arena site (APN-441-590-04).

Agency Negotiator: Real Estate Assets Director.

Negotiating Parties: Arena Group 2000 as operator of the San Diego Sports Arena.

Under Negotiation: Terms of New Ground Lease Agreement for three (3) pad sites to be used by retail subtenants.

Prior to Council discussion in Closed Session and in compliance with the Brown Act, (California Government Code Section 54956.8) this issue is listed on the docket only for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session on July 17, 2001.

NOTE: Members of the public wishing to address the Council on this item should speak "in favor" or "in opposition" to the subject.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C362-366.)

Hearing closed.

PUBLIC NOTICES:

Items are listed under Public Notice as a matter of public record only. These items do not require Council action.

ITEM-250: **Notice** of Pending Final Map Approval.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "H and A Subdivision," a copy of which is available for public viewing at the office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be deemed approved and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 5:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-S400: Fanuel Street Rezone and Local Coastal Program Amendment.

(Continued from the meetings of May 8, 2001, Item 331, May 22, 2001, Item 331 and July 10, 2001, Item 332; last continued at the request of Councilmember Frye for further review.)

Matter of approving, conditionally approving, modifying or denying a request to rezone a 0.29-acre property located at 4527, 4533, and 4545 Fanuel Street from CO-1-2 (Commercial-Office) to CC-3-4 (Commercial-Community).

The proposed rezone is located in the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on this rezone will be with the California Coastal Commission. The City of San Diego must submit this as an amendment for certification to the California Coastal Commission. The amendment is not effective in the Coastal Zone until the California Coastal Commission unconditionally certifies the amendment.

(Rezone No. 40-0266. Pacific Beach Community Plan area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Introduce the Ordinance:

(O-2001-128) CONTINUED TO TUESDAY, AUGUST 7, 2001

Introduction of an Ordinance changing 0.29 acres located at 4527 and 4545-4547 Fanuel Street, within the Pacific Beach Community Plan area, from the CO-1-2 (Commercial-Office) Zone into the CC-3-4 (Commercial-Community) Zone, as defined by San Diego

Municipal Code Section 131.0507; and repealing Ordinance No. O-10364 (New Series), adopted August 13, 1970, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

OTHER RECOMMENDATIONS:

Planning Commission voted 5-1 to approve; was opposition.

Ayes: Steele, Skorepa, Brown, Stryker, Garcia

Nays: Anderson

The Pacific Beach Community Planning Group has recommended denial of the proposed rezone.

CITY MANAGER SUPPORTING INFORMATION:

The project site is a 0.29-acre property located at the southeast corner of Fanuel Street and Felspar Street, within Pacific Beach. The property is developed with three existing commercial buildings, parking, and landscaping. The buildings are currently occupied by a dentist office, a motorcycle sales and service shop, a hair salon, and one 2-bedroom apartment unit upstairs.

The property is currently zoned CO-1-2 (Commercial-Office). This zone allows a mix of office and residential uses, but does not allow commercial services such as the hair salon, nor does it allow vehicle sales and service such as the motorcycle shop. The dentist office is an allowed use.

In September of 1999, the City's Code Compliance Department investigated the site in response to complaints from the neighborhood. After inspecting the site, Code Compliance determined that both the hair salon and motorcycle shop uses were not permitted in the CO-1-2 zone, and were thus in violation of the City's Municipal Code. The Code Enforcement Case against the property has been held in abeyance to allow the property owner to seek City Council approval of a rezone that would permit both the hair salon and motorcycle shop to continue to operate on the premises.

In April of 2000, the owner submitted to the City a rezone application requesting the CC-1-1(Commercial-Regional) zone. This zone would allow a wide variety of retail and commercial uses, including vehicle and vehicle equipment sales and service (motorcycle shop).

On July 24, 2000, the Pacific Beach Community Planning Committee took formal action on the Fanuel Rezone proposal from CO-1-2 to CC-1-1 and voted (8-1-5) to recommend denial of the rezone request. The committee's action was based primarily on public testimony and opposition provided by residents in the surrounding neighborhood. Most of the complaints centered around the noise and vibration generated or caused by the existing motorcycle shop, including noise impacts associated with motorcycle repair activities (dynamometer), motorcycle noise from customers arriving and leaving the property, and extraneous motorcycle-related activities on the site (parties and road rallies).

Based primarily on opposition from the planning group and surrounding neighbors, the applicant agreed to revise the rezone application to request the CC-3-4 zone, which is a community commercial zone intended to accommodate development with a pedestrian orientation. The CC-3-4 zone prohibits vehicle and vehicle equipment sales and service. Therefore, the sales, rental, service, repair, or maintenance of motorcycles or motorcycle equipment would not be permitted on the property. The CC-3-4 zone would however, allow the hair salon to continue to operate.

On November 27, 2000, the applicant presented the revised rezone request to the Pacific Beach Community Planning Committee. Before voting on the revised rezone request, the Planning Committee chair determined that the committee would have to reconsider and rescind their previous vote (by a two-thirds majority). That motion to rescind their previous vote failed, and no further action was taken by the Committee on the requested CC-3-4 zone.

On December 14, 2000, this proposed rezone request was considered by the Planning Commission. During that hearing, considerable concern was expressed by neighbors regarding several uses permitted under the proposed CC-3-4 zone.

In an effort to prohibit certain uses permitted by the proposed zone but deemed inappropriate by neighbors, the applicant volunteered to restrict uses through a recorded deed restriction. The Planning Commission hearing was continued in order to provide the applicant the opportunity to both record the deed restriction, and allow the Pacific Beach Community Planning Committee to review and consider the deed restriction. On January 22, 2001, the Pacific Beach Community Planning Committee rejected the rezone request and the deed restriction.

Finally, on February 15, 2001, the Planning Commission approved the proposed rezone (without the deed restriction).

FISCAL IMPACT: None.

LEGAL DESCRIPTION:

The 0.29 acres located at 4527 and 4545-4547 Fanuel Street, as shown on Zone Map Drawing No. B-4147, and is more particularly described as Parcels 1 and 2 of Parcel Map No. 00397.

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15060(c)(2).

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: B077-186.)

MOTION BY INZUNZA TO CONTINUE TO TUESDAY, AUGUST 7, 2001 AT THE REQUEST OF THE REZONE PETITIONERS FOR A FULL COUNCIL VOTE AND PENDING DEVELOPMENTS WHICH MAY MAKE THE REZONE UNNECESSARY. Second by Frye. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

*ITEM-S401: Appointments to the Housing Advisory and Appeals Board.

(See memorandum from Mayor Murphy dated 6/27/2001 with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-96) ADOPTED AS RESOLUTION R-295157

Council confirmation of the following appointments by the Mayor to serve as members of the Housing Advisory and Appeals Board for terms expiring as indicated:

Terms ending August 1, 2002:

Jaime M. Barton
Liliani Stiffler

Terms ending August 1, 2003:

Gina Champion-Cain (Chair)
Dorothy James
Richard H. Miller, Jr.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

*ITEM-S402: Appointments to the San Diego Housing Commission.

(See memorandum from Mayor Murphy dated 7/6/2001, with resume attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-117) ADOPTED AS RESOLUTION R-295158

Council confirmation of the following appointments by the Mayor to serve as members of the San Diego Housing Commission, for terms ending January 2, 2005.

Salvador Salas
(Replacing Steven W. Oxberry, whose term has expired)

Robert A. Grinchuk
(Reappointment)

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A317-349.)

CONSENT MOTION BY STEVENS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Wear-not present, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 4:09 p.m. in honor of the memory of:

Norman Bard as requested by Council Member Atkins and,
Marina Inzunza as requested by Council Member Inzunza.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Tape location: C370-439).